

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY
3 2:08-cv-1567 (JAG-MCA)
4

5 DR. FADI CHAABAN, DR. SABINO R. TORRE, :
6 DR. CONSTANTINOS A. COSTEAS and :
7 DR. ANTHONY J. CASELLA, as trustees of :
8 Diagnostic & Clinical Cardiology, PA, :
9 Profit Sharing Plan, :
10 Plaintiffs, :
11 vs. :
12 DR. MARIO CRISCITO, :
13 Defendant, :

14 - - - - -

15 DEPOSITION OF ANTHONY J. CASELLA, MD
16 THURSDAY, MAY 21, 2009
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1 T R A N S C R I P T of the stenographic
2 notes of the proceedings in the above-entitled
3 matter, as taken by and before LAURA WESTRA, a
4 Certified Court Reporter and Notary Public of the
5 State of New Jersey, held at the offices of WITMAN
6 STADTMAUER, 26 Columbia Turnpike, Florham Park, New
7 Jersey, on Thursday, May 21, 2009, commencing at
8 10:10 a.m.

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1 A P P E A R A N C E S:

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1 I N D E X

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3 WITNESS

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5 ANTHONY J. CASELLA, MD PAGE

6 BY: MR. KERN 5

7 BY: MR. CHARME 125

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10 E X H I B I T S

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12 NUMBER DESCRIPTION PAGE

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14 Casella-1 FAX/AMOUNTS REPORTED TO APC 24

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17 (Exhibits retained by counsel.)

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1 A N T H O N Y J . C A S E L L A, 28 Holton Lane,
2 Essex Fells, New Jersey, is duly sworn by a
3 Notary Public of the State of New Jersey and
4 testifies under oath as follows:

5 DIRECT EXAMINATION BY MR. KERN:

6 Q Dr. Casella, as you know, my name is
7 Steven Kern. I represent Mario Criscito in a case
8 that has been brought against him in the Federal
9 District Court captioned Chaaban, Torre, Costeas and
10 Casella as trustees for Diagnostic & Clinical
11 Cardiology, P.A. Profit Sharing Plan versus
12 Criscito. Are you familiar with the lawsuit,
13 doctor?

14 A Yes.

15 Q I am going to ask you a series of
16 questions here today. If at any point you do not
17 understand my question, you are confused, you feel
18 it is ambiguous or otherwise, please let me know.
19 Otherwise, the answers that you give will be deemed
20 to be responsive to the questions that I have asked
21 you. You understand that?

22 A Yes.

23 Q Have you been deposed before?

24 A Yes.

25 Q On how many occasions?

1 Criscito came up with another number?

2 A Yes.

3 Q Okay. Has Ms. Canaras made any claim
4 against the fund?

5 A Only in that she is a participant, so we
6 are -- this lawsuit is in behalf of the
7 participants.

8 Q She continues as an employee?

9 A No, she left.

10 Q Has she made any claim against you?

11 A No.

12 Q Is she aware of the dispute?

13 A No.

14 Q Paragraph 36. Can you explain that to
15 me?

16 MR. CHARME: Object to the form.

17 A Well, the records that we have on the Smith
18 Barney account show that there was a certain amount
19 in there from day one and it appears that there were
20 no distributions from the fund until Criscito tried
21 to roll it over into his IRA in 2007.

22 Q Was that a successful rollover?

23 A Apparently made a request or rolled it over
24 and then they recouped the money.

25 Q Who recouped it?

1 A Smith Barney.

2 Q What do you mean they recouped it?

3 A Well, the trustees called them up and told
4 them he wasn't the trustee.

5 Q So the money still stays in that
6 account?

7 A Yes.

8 Q The Smith Barney account, not the
9 Morgan Stanley?

10 A Smith Barney.

11 Q Okay. So when, in paragraph 36, it is
12 alleged that the defendant had the balance of that
13 account transferred to his individual IRA account in
14 or about September 2007, that's not correct?

15 MR. CHARME: Object to the form.

16 A No. I believe it was transferred and Smith
17 Barney recovered it. Smith Barney sold the -- I am
18 not sure if they sold the securities, but they told
19 us that he was -- went down there in person and
20 removed the money and that they would recoup it.

21 Q It is your understanding he actually
22 had money in hand and they got it back from him?

23 A From a telephone conversation that's what I
24 understood, but I didn't see that in writing. I
25 just know that it was put back into the account.

1 C E R T I F I C A T E

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3 I, LAURA WESTRA, a Certified Court Reporter
4 and Notary Public of the State of New Jersey,
5 certify that the foregoing is a true and accurate
6 transcript of the deposition of said witness who was
7 first duly sworn by me, on the date and place
8 hereinbefore set forth.

9 I FURTHER CERTIFY that I am neither attorney
10 nor counsel for, nor related to or employed by, any
11 of the parties to the above action, and further that
12 I am not a relative or employee of any attorney or
13 counsel employed in this action, nor am I
14 financially interested in this case.

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21 LAURA WESTRA, C.C.R.

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